

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31

PULAU CORPORATION

Employer,

and

TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN, INDUSTRIAL & ALLIED
WORKERS OF AMERICA, LOCAL 166,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

Petitioner.

Case 31-RC-153856

STATEMENT IN OPPOSITION TO REQUESTS FOR REVIEW

Petitioner files this Statement in Opposition to (1) the Employer's request for review of the Regional Director's Decision and Certification of Representative and (2) the Employer's request for review of the Regional Director's Decision and Direction of Election, which requests for review are based **solely** on the Employer's objection to the Board's representation case procedures, 29 C.F.R. §§ 102.60 *et seq.*, as amended.

In addition to the reasons provided in the Regional Director's Decision and Certification of Representative, dated July 9, 2015, and the Regional Director's Decision and Direction of Election, dated June 19, 2015, the Employer's requests for review should be denied because the Employer has not adduced any evidence of actual prejudice based on its objection to the Board's representation case procedures. In the absence of actual prejudice to the Employer, the Employer's objections were properly denied.

Rather than demonstrate any actual prejudice or harm, the Employer relies on an abstract or hypothetical claim of prejudice by claiming that the Employer's Vice President of Human Resources, Amy Gausz, did not have a "meaningful opportunity" to "engage the employees" because the petition was filed on June 9, 2015 and the election was held seventeen (17) days later on June 26, 2015, whereas Ms. Gausz "was only able to be on-site to engage the employees" on "June 18, 19, 22 – 25." [Employer's Request for Review of Regional Director's Decision and Certification of Representative, filed on August 6, 2015, at p. 11.] The Employer contends that Ms. Gausz, despite being on-site at least eight (8) days prior to the June 26 election, did not have a "meaningful opportunity" to engage the bargaining unit employees, even though the unit consists of not more than fifteen (15) employees and Ms. Gausz was present from June 18 through the June 26 election to "engage" the employees. However, the Employer, through its on-site project manager, David Tabet, began to "engage" its employees no later than June 10, 2015, which was the day after the filing of the petition, by engaging employees in discussions concerning the Petitioner.

In addition, the Employer has waived/is estopped from making any argument that it did not have a "meaningful opportunity" to engage its employees because, aside from stipulating to the election date, the Employer, through Amy Gausz, informed Petitioner that the Employer wanted the election on an earlier date, June 24, 2015, to accommodate Ms. Gausz's schedule, whereas Petitioner, in its petition, proposed an election date as late as June 30, 2015. Prior to and at the June 18, 2015 pre-election hearing, based on the Employer's preference to have an earlier election date, the parties stated that they were agreeable to stipulating to an election date of June 24, 2015, but were informed by the Region at the June 18, 2015 pre-election hearing that a June 24, 2015 election date was not possible due to various considerations, and that June 26,

2015 would be the earliest date for a stipulated election. For the Employer now to claim that it did not have enough time or a “meaningful opportunity” to engage its employees is disingenuous when the Employer had actually wanted an earlier election date of June 24, 2015, rather than June 26, 2015.

Based on the foregoing, the Petitioner respectfully submits that the Board should deny the Employer’s request for review of the Regional Director’s Decision and Certification of Representative and the Employer’s request for review of the Regional Director’s Decision and Direction of Election.

Dated: August 13, 2015

Respectfully submitted,

/s/ William Sheh 

William Sheh

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of August 2015, the foregoing Petitioner's Statement in Opposition to Requests for Review was filed electronically and that service copies were sent by U.S. Mail to:

Mori Rubin, Regional Director
National Labor Relations Board
Region 31
11500 West Olympic Blvd., Suite 600
Los Angeles, CA 90064

And that service copies were sent by U.S. Mail and electronically to:

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William Sheh, Counsel for Petitioner
Teamsters, Chauffeurs, Warehousemen, Industrial
and Allied Workers of America, Local 166,
International Brotherhood of Teamsters

Dated at Los Angeles, California, this 13th day of August 2015.